

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2003 AUG 11 PM 2:19 REVIEW COMMISSION
(1) Agency Transportation		IRRC Number: 2346
(2) I.D. Number (Governor's Office Use) # 18-374		
(3) Short Title Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers		
(4) PA Code Cite 67 Pa. Code, Chapter 83	(5) Agency Contacts & Telephone Numbers Primary Contact: Rebecca L. Bickley (717) 787-4701 Secondary Contact: Michael P. Kistler (717) 772-2119	
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. <p>The purpose of these amendments is to provide for waiver of the seizure-free requirements for drivers who have a seizure disorder but who are not a threat to public safety, to adopt new vision criteria to provide a waiver from the corrective lens requirement for certain drivers, and to provide for a restricted license for certain drivers whose combined visual acuity is less than 20/70 but is at least 20/100.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. <p>Authority for these amendments is found in Sections 1517, 1518, and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, <i>as amended</i> (75 Pa.C.S. §§ 1517, 1518, and 6103)</p>		

(10) Is the regulation mandated by any federal or state law or court order, or federal regulations? If yes, cite the specific law, case or regulation, and any deadlines for action.

These amendments to the regulation are not mandated by any federal or state law or court order or federal regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Advances in the practice of medicine and in medical research have caused medical providers to reevaluate the risk to the public safety posed by drivers treating for seizure disorder whose disorder is successfully controlled. Medical advances have shortened the time in which the provider can determine that the disorder is controlled or otherwise not an impediment to the safe operation of a motor vehicle. Similarly, advances in ophthalmological research indicate that some individuals with limited visual acuity can nevertheless operate a vehicle safely with restrictions. These amendments appropriately reflect these advances in medicine and will permit individuals heretofore prohibited from driving to obtain a driver's license, without risk to the safety of the motoring public.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Failure to amend these regulations will continue to prohibit individuals who are capable of operating a motor vehicle safely from obtaining a driver's license.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Individuals with seizure disorders controlled by medication or otherwise eliminated will benefit from the shorter time frames during which they must demonstrate that they were seizure free. Individuals with diminished visual acuity who are nevertheless able to safely drive will also benefit from the more current medical standards in the amendments to the regulation. The precise number of individuals who will benefit cannot be determined.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There should be no adverse impact on any individuals from these amendments to the regulation. Individuals with visual acuity below 20/70 who obtain a restricted license will be required to have an annual vision examination; this inconvenience and cost, however, is easily outweighed by the grant of the driving privilege.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

It is not known precisely how many individuals with seizure disorders, lower visual acuity, or other physical or mental challenges will be required to comply with these regulations. The number should increase only slightly, however, as the only new group of individuals which will be affected are those with visual acuity between 20/70 and 20/100 who, without these amendments, are not permitted to drive at all.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

These proposed amendments are the result of in-depth reviews and discussions conducted by the Medical Advisory Board. In addition, the Department sought participation from hospitals, rehab facilities and other interest groups in the development of these standards.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The costs and/or savings to the regulated community resulting from these amendments are marginal and cannot be calculated with any precision.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There should be no costs and/or savings to local governments resulting from these amendments to the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There should be no costs and/or savings to state government resulting from these amendments to the regulation.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

--	--	--	--	--	--	--	--	--	--

1/17/03

	Current FY Year	FY + 1 Year	FY + 1 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
SAVINGS:	\$ N/A	\$	\$	\$	\$	\$
Regulated Community:	N/A					
Local Government:	N/A					
State Government:	N/A					
Total Savings	N/A					
COSTS:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Costs	N/A					
REVENUE LOSSES:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	N/A					

(20a) Explain how the cost estimates listed above were derived.
N/A

(20b) Provide the three year expenditure history for programs affected by the regulation.
N/A

Program	FY-3	FY-2	FY-1	Current FY

(21) Using cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There were no nonregulatory alternatives considered. The changes in the medical standards could not be effected without amendment of the regulation.

(23) Describe alternative regulatory schemes and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no applicable federal standards governing the state's licensing of drivers.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation will not put Pennsylvania at a competitive disadvantage vis a vis other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These amendments will not affect other Department regulations or the regulations of any other Commonwealth agency.

(27) Will any public hearings or informal meetings be scheduled? Please provide the dates, times and locations, if available.

No public hearings on these amendments are scheduled at this time. Should public comment

on these proposed amendments warrant, public hearings may be held.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Reporting requirements included in § 83.6 of these amendments are not new but are required by 75 Pa. C.S. § 1518. These amendments reduce the reporting requirement somewhat by making clear in § 83.5(b) that some conditions need not be reported if the condition is expected to resolve in less than 90 days.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

These amendments are all designed to meet the particular needs of individuals with some physical or mental limitation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These amendments will become effective upon publication in final form in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

These provisions will be reviewed periodically as appropriate by the Medical Advisory Board to ensure that they stay current with future advances in medicine and medical research.

RECEIVED

<p>FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</p> <p>(Pursuant to Commonwealth Documents Law)</p> <p># 2346</p>	<p>2003 AUG 11 PM 2:19</p> <p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>DO NOT WRITE IN THIS SPACE</p>
---	--

<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p><i>Amy M. Elliott</i> By: _____ (Deputy Attorney General) JUL 30 2003 _____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p style="text-align: center;"><u>Department</u> <u>of</u> <u>Transportation</u> (Agency)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>18-374</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <i>Allen D. Biehler</i> _____ Secretary of Transportation</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><i>Daniel J. Duka</i> By: _____ 6/30/03 _____ (Date of Approval) Executive (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike Inapplicable Title)</p> <p><input type="checkbox"/> Check if applicable. No attorney General Approval or Objection within 30 days after submission.</p>
--	--	--

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Title 67. Transportation
Part I. Department of Transportation
Subpart A. Vehicle Code Provisions
Article IV. Licensing
Chapter 83. Physical and Mental Criteria, Including
Vision Standards Relating to the Licensing of Drivers

Title 67. Transportation
Part I. Department of Transportation
Subpart A. Vehicle Code Provisions
Article IV. Licensing
Chapter 83. Physical and Mental Criteria, Including
Vision Standards Relating to the Licensing of Drivers

Notice of Proposed Rulemaking

Preamble

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Sections 1517, 1518, and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §§ 1517, 1518, and 6103), proposes to amend Chapter 83 of the Department of Transportation Regulations, Title 67, by amending §§ 83.2–83.5 and adding a new § 83.6, as set forth in Annex A to this Notice.

Purpose of Chapter

The purpose of Chapter 83 is to set forth physical and mental criteria, including vision standards, for the licensing of drivers, formulated by the Medical Advisory Board pursuant to Sections 1517 and 1518 of the Vehicle Code (75 Pa.C.S. §§ 1517 and 1518). In addition to their use by the Department in connection with its responsibilities under the Vehicle Code, these physical and mental criteria are to be used by medical providers in conducting physical examinations of applicants for learner permits and driver licenses, and by physicians and other persons authorized to diagnose and treat disorders and disabilities covered in Chapter 83 to determine whether a person should be reported to the Department as having a disorder affecting the ability of the person to drive safely.

6/27/03

Purpose of the Proposed Amendments

The purpose of these amendments to Chapter 83 is to provide for waiver of the seizure-free requirements for drivers who have a seizure disorder but who are not a threat to public safety, and who would have their driving privileges recalled under the current regulations. The amendments also adopt new vision criteria to provide a waiver from the corrective lens requirement for certain drivers whose combined vision would not be improved by the use of corrective lenses for one eye and to provide for a restricted license for certain drivers whose combined visual acuity is less than 20/70 but is at least 20/100.

These regulations reflect consultation with the Department's Medical Advisory Board, as required by 75 Pa.C.S. §§ 1517 and 1518. The Medical Advisory Board, after having conducted in-depth reviews and discussions, has determined that these regulations require amendment to make them consistent with existing medical practice and improved technology. The Department has also actively sought the participation of representatives from hospitals, rehabilitation facilities and special interest groups. The proposed amendments to Chapter 83 reflect the collective concurrence of the constituencies consulted in developing the amendments to the existing regulations.

Summary of Significant Amendments

Section 83.2 (Definitions) has been amended to add the terms "seizure" and "seizure disorder." These terms replace the term "epilepsy" in Section 83.4. This broader terminology takes into consideration a number of symptoms and conditions that

are not specifically epilepsy but are seizure disorders that can affect a person's ability to operate a motor vehicle safely. In addition, this definition states that the term "seizure disorder" does not include isolated events caused by acute illness, intoxication, metabolic imbalance or trauma. Many individuals are reported to the Department as having seizure disorders when, in fact, they have had a seizure attributable to something other than electrically diagnosed epilepsy.

Section 83.2 (Definitions) has also been amended to add the term "aura." This term defines the physical warning many people experience prior to a seizure or in lieu of a seizure. It does not cause a change in the individual's ability to think clearly or in the ability to safely operate a motor vehicle.

Section 83.3 has been amended to permit an individual to obtain a waiver of the requirement to wear corrective lenses provided a licensed optometrist or ophthalmologist certifies that the individual's combined visual acuity would not be improved with use of corrective lenses.

Section 83.3 has also been amended to permit an individual who does not meet the current visual acuity standard of 20/70 combined vision to apply for a special restricted license if the combined visual acuity is at least 20/100. Research has indicated that in this range of visual acuity there is still ample sight to operate a vehicle safely with some restrictions.

The driver would have to successfully pass both a driver's examination and a complete vision examination. This special license granted would restrict the individual to daylight driving only, driving on roads other than freeways, and driving a passenger.

vehicle weighing no more than 10,000 lbs; the special license would not permit the driver to operate a motorcycle. A complete vision examination will be required annually and there will also be an annual review of the individual's driving record. The license will be recalled if there is any violation of the conditions or limitations.

Section 83.3 has also been amended to reduce the required horizontal field of vision from 140 degrees to 120 degrees. Studies indicate that drivers with a field of vision of only 120 degrees are still able to scan the area necessary to safely operate a motor vehicle.

Section 83.4 has been amended to eliminate the requirement for 16 and 17 year old individuals to be seizure free for two years. In the past, seizure disorders in adolescents were difficult to distinguish from brain tumors and other similar neurological disorders. The two-year waiting period was necessary to make a proper diagnosis. With diagnostic advances in this area, this concern has been eliminated.

Section 83.4 has also been amended to reduce the required seizure free period from one year to six months. Neurologists have indicated that advances in research and medication now allow them to determine, within a shorter time period, when an individual's seizure disorder is under control by medication. In addition, this section has also been amended to allow persons who experience only auras to retain their driving privilege. The aura does not interfere with the ability to drive and thus poses no risk.

Additional changes have been made to the waiver provisions of Section 83.4. A waiver of the freedom from seizure requirement for "a pattern of seizures immediately upon awakening" has been added to the waiver for strictly nocturnal seizures. Seizures

which occur only while the individual is waking, and therefore not driving, pose no risk. The period of time for the establishment of a history of these patterns has been shortened to two years, as has the time period for the establishment of a history of experiencing only auras. Neurologists are now confident that the consistency of a pattern can be established in a much shorter period of time.

The waiver provisions of Section 83.4 have also been amended to allow an individual who has had a seizure due to a prescribed change in or removal from medication while under medical supervision, to retain their driving privilege, provided the individual is returned to the medication with which the seizure disorder was previously controlled. Amendments to this Section also allow an individual who has had a seizure due to a nonrecurring transient illness, toxic ingestion, metabolic imbalance or nonrecurring trauma, to retain their driving privilege. Seizures occurring as a result of these conditions are not true seizure disorders, but rather the seizure is secondary to the causing condition. Treatment of the underlying cause of the seizure eliminates the concern that additional seizures will occur.

A provision has also been added which clarifies the reporting requirements for single seizures. This will allow the Department to better ensure that individuals with uncontrolled seizure disorders will be identified.

Section 83.5 has been amended to define and further clarify general disqualifications due to other physical and mental conditions likely to interfere with the ability to operate a motor vehicle safely. These general disqualifications have also been broken down into two categories to differentiate those conditions which require a

physician to recommend recall of the driving privilege from those which automatically require that recall. A six-month driving prohibition was added to Section 83.5(a) for cerebral vascular insufficiency or cardiovascular disease resulting in syncopal attacks, loss of consciousness, vertigo, paralysis, or loss of qualifying visual fields. A one-year driving prohibition was added for periodic episodes of loss of consciousness that are of unknown etiology or not otherwise categorized.

Section 83.5(b) has been amended to include a short term disability provision wherein the physician will inform the patient that he has a short term condition that will impair the ability to safely operate a motor vehicle, but because of the brevity of the condition will not be required to report the condition to the Department. This will be used for conditions that are self-correcting, normally healing, and fully recoverable, such as a broken arm.

Section 83.5 has also been amended to eliminate standards for mental deficiencies. Functional mental ability to operate a vehicle safely can be demonstrated by successfully passing the complete driver's examination. The standards in this section regarding mental disorders have been expanded to better explain current psychiatric rationale and to stress the importance of the physician's clinical judgement.

Section 83.6 has been added to clarify the statutory requirement in 75 Pa. C.S. 1518 that every provider is to report to the Department each person found to be unqualified to drive under this Chapter. This was added in order to ensure that physicians are aware of their statutory reporting requirements.

Persons and Entities Affected

These regulations affect all persons qualified or desiring to be qualified to drive, health care providers, and the Pennsylvania State Police.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These regulations will not impose any additional costs on the medical community and may reduce costs by providing clearer medical criteria and thus reduce unnecessary reporting by physicians and the need for follow-up medical examinations for drivers. It may impose additional costs on drivers wishing to apply for the restricted license for low vision drivers because of the requirement for an annual vision examination.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. § 745.5(a), the agency submitted a copy of these proposed regulations, on _____ to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the regulations, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

Sunset Provisions

The Department of Transportation will make these regulations effective upon publication in final form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required pursuant to the Vehicle Code (75 Pa. C.S. 1.01, et seq.). The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the regulations to Rebecca L. Bickley, Director, Bureau of Driver Licensing, 1101 South Front Street, Harrisburg, Pennsylvania 17104 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Michael P. Kistler, Manager, Driver Safety Division, Bureau of Driver Licensing, 1101 S. Front Street, 4th floor, Harrisburg, Pennsylvania 17104, telephone number: (717) 772-2119

Alan D. Biehler, P.E.

Secretary of Transportation

ANNEX A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 83. PHYSICAL AND MENTAL CRITERIA, INCLUDING
VISION STANDARDS RELATING TO THE LICENSING OF DRIVERS

NOTICE OF PROPOSED RULEMAKING

* * * * *

§ 83.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Aura—An epileptic seizure which does not alter an individual's ability to think clearly or interfere with an individual's mechanical or sensory ability to operate a motor vehicle.

* * * * *

Licensed optometrist—A doctor of optometry licensed by the [State Board of Optometrical Examiners] State Board of Optometry.

* * * * *

Nocturnal—As used in this Chapter in relation to seizures, this term means occurring during sleep.

* * * * *

Seizure—A paroxysmal disruption of cerebral function characterized by altered consciousness, altered motor activity or behavior identified by a physician as inappropriate for the individual.

Seizure Disorder—Condition in which an individual has experienced a single seizure of electrically diagnosed epilepsy, or has experienced more than one seizure not including seizures resulting from an acute illness, intoxication, metabolic disorder, or trauma.

* * * * *

§ 83.3. Visual Standards.

(a) *Driving without corrective lenses.* A person with visual acuity of 20/40 or better combined vision may drive without corrective lenses[, but if that person has less visual acuity than 20/40 in one eye, that eye shall be corrected to its best visual acuity].

(1) If a person with visual acuity of 20/40 or better combined vision, however, has less visual acuity than 20/40 in one eye, the vision in that eye shall be corrected to its best visual acuity.

(2) A person with visual acuity of 20/40 or better combined vision and who has visual acuity of less than 20/40 in one eye, may drive without corrective lenses upon determination by a licensed optometrist or ophthalmologist that the person's combined vision would not be improved by the use of corrective lenses.

(b) *Driving with corrective lenses.* A person with less visual acuity than 20/40 combined vision shall wear lenses correcting [his] combined vision to 20/40 or better while driving, except that if correction to 20/40 is not possible, the person may drive in daylight hours only if one of the following are met:

* * * * *

(c) Visual acuity of less than 20/70. A person with visual acuity of less than 20/70 combined vision but at least 20/100 combined vision with best correction may apply for and may be issued a restricted license only upon recommendation of a licensed optometrist or ophthalmologist or licensed physician who has equipment to properly evaluate visual acuity, and only if the following conditions or limitations are satisfied:

(1) The person takes and successfully passes a complete vision examination, including plotted visual fields, upon application and annually thereafter.

(2) The person takes and successfully passes a driver's examination upon application.

(3) The person's driving privilege is limited to roads other than freeways.

(4) The person's driving privilege is limited to passenger vehicles weighing no more than 10,000 pounds, and excludes operation of a motorcycle.

(5) If determined by the Department to be appropriate, the person's driving privilege is limited to driving within a specific geographic area.

Violation of these conditions or limitations shall result in the recall of the restricted license. In addition, an annual review of the person's accident and violation history will be conducted by the Department and the restricted license may be recalled if the Department determines that the person was involved in an at fault accident or convicted of two moving violations committed within a one year period.

~~[(c)]~~ (d) *Visual acuity of less than [20/70] 20/100.* A person with visual acuity of less than ~~[20/70] 20/100~~ combined vision with best correction ~~[is]~~ shall not be ~~[authorized]~~ qualified to drive.

~~[(d)]~~ (e) *Vision requirements.* A person shall have a combined field of vision of at least ~~[140] 120~~ degrees in the horizontal meridian, excepting the normal blind spots.

~~[(e)]~~ (f) *Sight in one eye.* A person may be adequately sighted in only one eye and still meet the requirements of this section; however, the person's driving privilege will be restricted to vehicles having mirrors so located as to reflect to the person a view of the highway for a distance of at least 200 feet to the rear.

~~[(f)]~~ (g) *Telescopic lenses.* Correction through the use of telescopic lenses is not acceptable for purposes of meeting acuity requirements.

§ 83.4. ~~[Epilepsy]~~ Seizure Disorder.

(a) *General.* A person ~~[suffering from epilepsy]~~ who has a seizure disorder ~~[may]~~ shall not be qualified to drive unless ~~[their personal licensed]~~ a physician reports that the person has been free from seizure for a period of at least [1 year] six months immediately preceding, with or without medication. A person will not be disqualified if the person has experienced only an aura during that period.

(b) ~~[Applicants between the ages of 16 and 18 years. Applicants between the ages of 16 and 18 years applying for their first license shall have been free from seizure for a period of at least 2 years immediately preceding, with or without medication.]~~

(c) *Waiver.* Waiver of the freedom from seizure requirement may be made upon specific recommendation by a licensed physician [who specializes in neurology or neurosurgery] if:

(1) A strictly nocturnal pattern of seizures or a pattern of seizures occurring only immediately upon awakening [the condition] has been established over a period of at least [3] two years immediately preceding, with or without medication;

(2) A specific prolonged aura accompanied by sufficient warning has been established over a period of at least [5] two years immediately preceding, with or without medication [.];

(3) The person previously had been free from seizure for a six month period and the subsequent seizure or seizures occurred as a result of a prescribed change in or removal from medication while under the supervision of a licensed physician. This waiver will only be provided upon reinstatement of previous medication; or

(4) The person previously had been free from seizure for a six month period and the subsequent seizure or seizures occurred during or concurrent with a nonrecurring transient illness, toxic ingestion, metabolic imbalance, or nonrecurring trauma.

(c) Reporting requirements for physicians. Every physician who treats a person who has experienced a single seizure shall provide, consistent with Section-1518 (b) of the Vehicle Code, a report to the Department which shall constitute cause for the Department to direct the person to undergo an examination prescribed pursuant to Section 1519 of the Vehicle Code.

§ 83.5. Other physical and Medical standards.

(a) *General disqualifications.* A person [afflicted by] who has any of the following conditions [may] shall not be qualified to drive [if, in the opinion of the examining physician,

the conditions are likely to interfere with the ability to control and safely operate a motor vehicle]:

(1) [Loss or impairment of the use of a foot, leg, finger, thumb, hand or arm, as a functional defect or limitation.

(2)] Unstable or brittle diabetes or hypoglycemia, unless there has been a continuous period of at least [6] six months freedom from any related syncopal attack.

[(3)] (2) Cerebral vascular insufficiency or cardiovascular disease [, including hypertension, with accompanying signs and symptoms] which, within the preceding six months, has resulted in either or both of the following:

(i) syncopal attack or loss of consciousness; or

(ii) vertigo, paralysis, or loss of qualifying visual fields.

[(4)] (3) Periodic episodes of loss of consciousness [, attention or awareness from whatever cause] which are of unknown etiology or not otherwise categorized, unless the person has been free from episode for the year immediately preceding.

(b) Disqualification on provider's recommendation. A person who has any of the following conditions shall not be qualified to drive if, in the opinion of the provider, the condition is likely to impair the ability to control and safely perform motor functions necessary to drive a motor vehicle:

(1) Loss of a joint or extremity as a functional defect or limitation.

(2) Impairment of the use of a joint or extremity as a functional defect or limitation.

(i) The provider shall inform the patient of the prohibition against driving due to the functional impairment.

(ii) The provider shall inform the Department in writing of the impairment if the condition has lasted or is expected to last longer than 90 days.

[(5)] (3) Rheumatic, arthritic, orthopedic, muscular, vascular, or neuromuscular disease.

(i) The provider shall inform the patient of the prohibition against driving due to the functional impairment.

(ii) The provider shall inform the Department in writing of the impairment if the condition has lasted or is expected to last longer than 90 days.

(4) Cerebral vascular insufficiency or cardiovascular disease which, within the preceding six months, has resulted in lack of coordination, confusion, loss of awareness, dyspnea upon mild exertion or any other sign or symptom which impairs the ability to control and safely perform motor functions necessary to operate a motor vehicle.

[(6) Mental deficiency or marked mental retardation in accordance with the International Classification of Diseases. For diagnostic categories, terminology and concepts to be used in classification, the physician should refer to the Diagnostic and Statistical Manual of the American Psychiatric Association and the Manual on Terminology and Classification in Mental Retardation of the American Association on Mental Deficiency.

(7)] (5) Mental [or emotional] disorder, whether organic or [functional] without known organic cause, as described in the current Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, 1700 18th Street NW, Washington, DC 20009, especially as manifested by:

(i) inattentiveness to the task of driving because of, for example, preoccupation, hallucination, or delusion.

(ii) contemplation of suicide, as may be present in acute or chronic depression or in other disorders.

(iii) excessive aggressiveness or disregard for the safety of self and/or others presenting a clear and present danger, regardless of cause.

While signs or symptoms of mental disorder may not appear during examination by the physician, evidence may be derived from the applicant's history as provided by self or others.

(6) Periodic episodes of loss of attention or awareness which are of unknown etiology or not otherwise categorized, unless the person has been free from episode for the year immediately preceding, as reported by a licensed physician.

[(8)] (7) Use of any drug or substance, including alcohol, known to impair skill or functions, regardless whether the drug or substance is medically prescribed.

[(9)] (8) [Another] Any other condition which, in the opinion of a [the examining licensed physician, could interfere with] provider, is likely to impair the ability to control and safely operate a motor vehicle.

[(b)](c) *Special driving examination.* A person [afflicted by] who has any of the conditions enumerated in [subsection (a) (1), (5), or (9)] subsection (b)(1), (2), (3), or (8) may be required to undergo a special driving examination to determine driving competency. The person may be restricted to driving [a vehicle equipped in a manner prescribed by the examining licensed physician or by the Department] only when utilizing appropriate adaptive equipment.

§ 83.6. Providers to report unqualified persons.

All physicians and other persons authorized to diagnose and treat disorders and disabilities defined by the Medical Advisory Board shall report to the Department, in writing, the full name, date of birth, and address of every person over 15 years of age diagnosed as having any specified disorder or disability within ten days, in accordance with 75 Pa. C.S. § 1518 (relating to reports on mental or physical disabilities or disorders).

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: #18-374

SUBJECT: Physical and Mental Criteria, Including Vision Standards relating to the Licensing of Drivers, 67 Pa. Code, Chapter 83

AGENCY: Department of Transportation

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

RECEIVED
 2003 AUG 11 PM 2:19
 REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>AUG 11 2003</u>	<u><i>Kristine Latham</i></u> for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION
<u>8/11/03</u>	<u><i>Robert Slwegert</i></u> for Minority Chair	
<u>8/11/03</u>	<u><i>Patricia Gilroy</i></u> for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION
<u>8/11/03</u>	<u><i>Mel A.</i></u> for Minority Chair	
<u>8/11/03</u>	<u><i>Elena Pagan</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (N/A)
<u>8/11/03</u>	<u><i>C. Lee Brown</i></u>	LEGISLATIVE REFERENCE BUREAU
Date:	August 11, 2003	